

1 AMENDMENT TO HOUSE BILL 2362

2 AMENDMENT NO. _____. Amend House Bill 2362 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Labor Relations Act is
5 amended by changing Section 9 as follows:

6 (5 ILCS 315/9) (from Ch. 48, par. 1609)

7 Sec. 9. Elections; recognition.

8 (a) Whenever in accordance with such regulations as may
9 be prescribed by the Board a petition has been filed:

10 (1) by a public employee or group of public
11 employees or any labor organization acting in their
12 behalf demonstrating that 30% of the public employees in
13 an appropriate unit (A) wish to be represented for the
14 purposes of collective bargaining by a labor
15 organization as exclusive representative, or (B)
16 asserting that the labor organization which has been
17 certified or is currently recognized by the public
18 employer as bargaining representative is no longer the
19 representative of the majority of public employees in the
20 unit; or

21 (2) by a public employer alleging that one or more
22 labor organizations have presented to it a claim that

1 they be recognized as the representative of a majority of
2 the public employees in an appropriate unit, the Board
3 shall investigate such petition, and if it has reasonable
4 cause to believe that a question of representation
5 exists, shall provide for an appropriate hearing upon due
6 notice. Such hearing shall be held at the offices of the
7 Board or such other location as the Board deems
8 appropriate. If it finds upon the record of the hearing
9 that a question of representation exists, it shall direct
10 an election in accordance with subsection (d) of this
11 Section, which election shall be held not later than 120
12 days after the date the petition was filed regardless of
13 whether that petition was filed before or after the
14 effective date of this amendatory Act of 1987; provided,
15 however, the Board may extend the time for holding an
16 election by an additional 60 days if, upon motion by a
17 person who has filed a petition under this Section or is
18 the subject of a petition filed under this Section and is
19 a party to such hearing, or upon the Board's own motion,
20 the Board finds that good cause has been shown for
21 extending the election date; provided further, that
22 nothing in this Section shall prohibit the Board, in its
23 discretion, from extending the time for holding an
24 election for so long as may be necessary under the
25 circumstances, where the purpose for such extension is to
26 permit resolution by the Board of an unfair labor
27 practice charge filed by one of the parties to a
28 representational proceeding against the other based upon
29 conduct which may either affect the existence of a
30 question concerning representation or have a tendency to
31 interfere with a fair and free election, where the party
32 filing the charge has not filed a request to proceed with
33 the election; and provided further that prior to the
34 expiration of the total time allotted for holding an

1 election, a person who has filed a petition under this
2 Section or is the subject of a petition filed under this
3 Section and is a party to such hearing or the Board, may
4 move for and obtain the entry of an order in the circuit
5 court of the county in which the majority of the public
6 employees sought to be represented by such person reside,
7 such order extending the date upon which the election
8 shall be held. Such order shall be issued by the circuit
9 court only upon a judicial finding that there has been a
10 sufficient showing that there is good cause to extend the
11 election date beyond such period and shall require the
12 Board to hold the election as soon as is feasible given
13 the totality of the circumstances. Such 120 day period
14 may be extended one or more times by the agreement of all
15 parties to the hearing to a date certain without the
16 necessity of obtaining a court order. Nothing in this
17 Section prohibits the waiving of hearings by stipulation
18 for the purpose of a consent election in conformity with
19 the rules and regulations of the Board or an election in
20 a unit agreed upon by the parties. Other interested
21 employee organizations may intervene in the proceedings
22 in the manner and within the time period specified by
23 rules and regulations of the Board. Interested parties
24 who are necessary to the proceedings may also intervene
25 in the proceedings in the manner and within the time
26 period specified by the rules and regulations of the
27 Board.

28 (b) The Board shall decide in each case, in order to
29 assure public employees the fullest freedom in exercising the
30 rights guaranteed by this Act, a unit appropriate for the
31 purpose of collective bargaining, based upon but not limited
32 to such factors as: historical pattern of recognition;
33 community of interest including employee skills and
34 functions; degree of functional integration;

1 interchangeability and contact among employees; fragmentation
2 of employee groups; common supervision, wages, hours and
3 other working conditions of the employees involved; and the
4 desires of the employees. For purposes of this subsection,
5 fragmentation shall not be the sole or predominant factor
6 used by the Board in determining an appropriate bargaining
7 unit. Except with respect to non-State fire fighters and
8 paramedics employed by fire departments and fire protection
9 districts, non-State peace officers and peace officers in the
10 State Department of State Police, a single bargaining unit
11 determined by the Board may not include both supervisors and
12 nonsupervisors, except for bargaining units in existence on
13 the effective date of this Act. With respect to non-State
14 fire fighters and paramedics employed by fire departments and
15 fire protection districts, non-State peace officers and peace
16 officers in the State Department of State Police, a single
17 bargaining unit determined by the Board may not include both
18 supervisors and nonsupervisors, except for bargaining units
19 in existence on the effective date of this amendatory Act of
20 1985.

21 In cases involving an historical pattern of recognition,
22 and in cases where the employer has recognized the union as
23 the sole and exclusive bargaining agent for a specified
24 existing unit, the Board shall find the employees in the unit
25 then represented by the union pursuant to the recognition to
26 be the appropriate unit.

27 Notwithstanding the above factors, where the majority of
28 public employees of a craft so decide, the Board shall
29 designate such craft as a unit appropriate for the purposes
30 of collective bargaining.

31 The Board shall not decide that any unit is appropriate
32 if such unit includes both professional and nonprofessional
33 employees, unless a majority of each group votes for
34 inclusion in such unit.

1 (c) Nothing in this Act shall interfere with or negate
2 the current representation rights or patterns and practices
3 of labor organizations which have historically represented
4 public employees for the purpose of collective bargaining,
5 including but not limited to the negotiations of wages, hours
6 and working conditions, discussions of employees' grievances,
7 resolution of jurisdictional disputes, or the establishment
8 and maintenance of prevailing wage rates, unless a majority
9 of employees so represented express a contrary desire
10 pursuant to the procedures set forth in this Act.

11 (d) In instances where the employer does not voluntarily
12 recognize a labor organization as the exclusive bargaining
13 representative for a unit of employees, the Board shall
14 determine the majority representative of the public employees
15 in an appropriate collective bargaining unit by conducting a
16 secret ballot election. Within 7 days after the Board issues
17 its bargaining unit determination and direction of election
18 or the execution of a stipulation for the purpose of a
19 consent election, the public employer shall submit to the
20 labor organization the complete names and addresses of those
21 employees who are determined by the Board to be eligible to
22 participate in the election. When the Board has determined
23 that a labor organization has been fairly and freely chosen
24 by a majority of employees in an appropriate unit, it shall
25 certify such organization as the exclusive representative.
26 If the Board determines that a majority of employees in an
27 appropriate unit has fairly and freely chosen not to be
28 represented by a labor organization, it shall so certify. The
29 Board may also revoke the certification of the public
30 employee organizations as exclusive bargaining
31 representatives which have been found by a secret ballot
32 election to be no longer the majority representative.

33 (e) The Board shall not conduct an election in any
34 bargaining unit or any subdivision thereof within which a

1 valid election has been held in the preceding 12-month
2 period. The Board shall determine who is eligible to vote in
3 an election and shall establish rules governing the conduct
4 of the election or conduct affecting the results of the
5 election. The Board shall include on a ballot in a
6 representation election a choice of "no representation". A
7 labor organization currently representing the bargaining unit
8 of employees shall be placed on the ballot in any
9 representation election. In any election where none of the
10 choices on the ballot receives a majority, a runoff election
11 shall be conducted between the 2 choices receiving the
12 largest number of valid votes cast in the election. A labor
13 organization which receives a majority of the votes cast in
14 an election shall be certified by the Board as exclusive
15 representative of all public employees in the unit.

16 (f) Nothing in this or any other Act prohibits
17 recognition of a labor organization as the exclusive
18 representative by a public employer by mutual consent of the
19 employer and the labor organization, provided that the labor
20 organization represents a majority of the public employees in
21 an appropriate unit. Any employee organization which is
22 designated or selected by the majority of public employees,
23 in a unit of the public employer having no other recognized
24 or certified representative, as their representative for
25 purposes of collective bargaining may request recognition by
26 the public employer in writing. The public employer shall
27 post such request for a period of at least 20 days following
28 its receipt thereof on bulletin boards or other places used
29 or reserved for employee notices.

30 (g) Within the 20-day period any other interested
31 employee organization may petition the Board in the manner
32 specified by rules and regulations of the Board, provided
33 that such interested employee organization has been
34 designated by at least 10% of the employees in an appropriate

1 bargaining unit which includes all or some of the employees
2 in the unit recognized by the employer. In such event, the
3 Board shall proceed with the petition in the same manner as
4 provided by paragraph (1) of subsection (a) of this Section.

5 (h) No election shall be directed by the Board in any
6 bargaining unit where there is in force a valid collective
7 bargaining agreement. The Board, however, may process an
8 election petition filed between 90 and 60 days prior to the
9 expiration of the date of an agreement, and may further
10 refine, by rule or decision, the implementation of this
11 provision. Where more than 4 years have elapsed since the
12 effective date of the agreement, the agreement shall continue
13 to bar an election, except that the Board may process an
14 election petition filed between 90 and 60 days prior to the
15 end of the fifth year of such an agreement, and between 90
16 and 60 days prior to the end of each successive year of such
17 agreement. ~~No--collective--bargaining--agreement---bars---an~~
18 ~~election--upon--the--petition--of--persons--not--parties--thereto~~
19 ~~where--more--than--3--years--have--elapsed--since--the--effective--date~~
20 ~~of--the--agreement.~~

21 (i) An order of the Board dismissing a representation
22 petition, determining and certifying that a labor
23 organization has been fairly and freely chosen by a majority
24 of employees in an appropriate bargaining unit, determining
25 and certifying that a labor organization has not been fairly
26 and freely chosen by a majority of employees in the
27 bargaining unit or certifying a labor organization as the
28 exclusive representative of employees in an appropriate
29 bargaining unit because of a determination by the Board that
30 the labor organization is the historical bargaining
31 representative of employees in the bargaining unit, is a
32 final order. Any person aggrieved by any such order issued
33 on or after the effective date of this amendatory Act of 1987
34 may apply for and obtain judicial review in accordance with

1 provisions of the Administrative Review Law, as now or
2 hereafter amended, except that such review shall be afforded
3 directly in the Appellate Court for the district in which the
4 aggrieved party resides or transacts business. Any direct
5 appeal to the Appellate Court shall be filed within 35 days
6 from the date that a copy of the decision sought to be
7 reviewed was served upon the party affected by the decision.
8 (Source: P.A. 87-736; 88-1.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law."